IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4396 OF 2004

Hari Mohan Ram Swaroop Goyal ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri S.P. Kadam with J.C. Pathak for Applicant.
Shri S. R. Shinde, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 18.10.2004

PC :-

. This is a second anticipatory bail application filed by the applicant. Earlier appilcation was dismissed as withdrawn unconditionally by order dated 4th October, 2004. The same reads thus :-

> "After hearing counsel for the Applicant for some time, the counsel prayed that the Applicant be permitted to withdraw this application. Hence, dismissed as withdrawn unconditionally"

. The present application has been filed, on the ground that the Advocate who appeared on the earlier occasion, had no authority to withdraw the

application. I find no substance in that submission. This is the usual practice now adopted in this court; in as much as, after the court indicates its mind that it is not inclined to grant the application, the Advocate on record prays that the applicantion be allowed to be withdrawn. If such request is acceded to that does not mean that the applicant should once again file a fresh application. In the present case, I have recorded in my order dated 4th October, 2004 that counsel for the applicant was heard for some time, which means that the matter was fully heard but since I was proceeding to dismiss the matter by recording reasons therefor the Advocate who appeared at the relevant time thought it proper to withdraw the application so that no prejudice is caused to the applicant in the event the regular bail application is to be filed before the lower court. Shri Kadam contends that the earlier application has not been decided on merits. However, the said order clearly answers the grievance made by Shri Kadam that earlier application was heard on merits but I was not inclined to interfere and it is in this background, I observed that the application is dismissed as withdrawn "unconditionally". In these circumstances, this application cannot be entertained as there is no

changed circumstances. Hence, dismissed.

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